

## **REMARKS**

Claims 1, 4, 5, 8, 9, and 17-19 and 22-24 stand rejected under 35 U.S.C. §103(a) as being obvious over U.S. Patent No. 7,708,002 to Tambornino ("Tambornino") in view of U.S. Patent No. 4,565,345 to Templeman ("Templeman"). Claims 6, 7 and 25 stand rejected under 35 U.S.C. §103(a) as being obvious over Tambornino as modified by Templeman, and in view of U.S. Patent Application Publication No. 2005/0246869 to Chene ("Chene").

### **Rejection of Claims 1, 4, 5, 8, 9, 17-19 and 22-24 under 35 U.S.C. §103(a) over Tambornino in view of Templeman**

Independent claim 1 requires a hitch ball receiver having at least one acircular recess having a sidewall. Further, independent claim 1 requires that the base of the hitch ball is engageable with the sidewall to prevent rotation of the hitch ball during installation.

The Office Action alleges that Tambornino teaches at least one cavity in the hitch ball receiver in FIG. 6. However, the Patent Office has failed to identify which cavity in FIG. 6 is relied upon for the teaching of the recess of independent claim 1. Applicants, therefore, cannot fully address the rejection of the Patent Office. Applicants respectfully request that the Patent Office specifically indicate on the record which cavity in Tambornino is relied upon for this rejection.

Applicants have identified two potential cavities, one of which may possibly be the cavity referred to by the Patent Office, namely cavities 60 and 72. Neither cavity 60 nor cavity 72 is an acircular recess having a sidewall as required by independent claim 1.

Cavity 72 is a circular hole for the hitch ball post of a hitch ball. Column 5, lines 34-39. Accordingly, cavity 72 is not a recess having a sidewall that prevents rotation of the hitch ball during installation. Instead, the cavity 72 is merely an aperture for the shaft of the hitch ball. The hitch ball of Tambornino rotates with respect to the cavity 72, and, therefore cavity 72 merely discloses the problem in which the Applicants seek to overcome.

Cavity 60 is used to fixedly secure a hitch tube to the bottom of a hitch tongue in order to transfer loads from the hitch tongue to the hitch tube without bending or fatigue breakage. Cavity 60 does not have a sidewall of an acircular recess that is engageable with a base of a hitch ball to prevent rotation as required by independent claim 1. Cavity 60 is actually provided to aid in the hitch tube bearing loads, such as, the downward weight pushing the angled portion of the hitch tongue into the hitch tube. Therefore, cavity 60 fails to teach or suggest a sidewall of a recess that is engageable with a base of a hitchball to prevent rotation of the hitch ball during installation.

Templeman teaches a vehicle mirror assembly. The mirror assembly has a ball member 13 having relief grooves 28 for receiving the keys 61 of the bolt 44 to prevent rotation of the bolt 44 with respect to the ball member 13. The ball member 13 has an end 38 that is engageable with recess 39 to prohibit the ball member 13 from rotating relative to the support member 7.

Applicants are unclear as how the Patent Office is attempting to modify Tambornino with Templeman to satisfy the elements of the present invention as defined by independent claim 1. Neither reference, taken individually or in combination, teaches or even remotely suggests a hitch ball receiver having at least one acircular recess having a sidewall, as required by claim 1. In addition, neither reference, taken individually or in combination, teaches or even remotely suggests a base integrally formed with the hitch ball, as required by claim 1. Furthermore, neither reference teaches or even remotely suggests that the base of the hitch ball is engageable with the sidewall of the recess to prevent rotation of the hitch ball during installation, as required by claim 1.

Moreover, Applicants do not understand logically how the Patent Office is providing motivation for combining Tabornino that attempts to improve the connection of a hitch tongue and hitch tube so as to withstand greater loads with Templeman that relates to a mirror assembly. Obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so. *In re Kahn*, 441 F.3d 977, 986, 78 USPQ2d 1329, 1335 (Fed. Cir. 2006) (discussing rationale underlying the motivation-suggestion-teaching requirement as a guard against using hindsight in

an obviousness analysis). The teaching, suggestion, or motivation must be found either explicitly or implicitly in the references themselves or in the knowledge generally available to one of ordinary skill in the art. *In re Kotzab*, 217 F.3d 1365, 1370, 55 USPQ2d 1313, 1317 (Fed. Cir. 2000).

Clearly, Tambornino lacks motivation for modifying the cavity 72 as Tambornino does not discuss or even remotely suggest any problem with the hitch ball and the aperture 72. Instead, Tambornino focuses the improvement on the cavity 60 as it relates to improving the ability of the hitch tongue and the hitch tube to withstand greater load forces. Furthermore, Templeman fails to provide any motivation whatsoever for combining the structure of the mirror assembly to a hitch ball assembly. Instead, the rejection appears to be formed using improper hindsight to combine two unrelated references. Accordingly, the requisite teaching, suggestion or motivation to combine Tambornino with Templeman does not exist and a prima facie obviousness rejection has not been established. Therefore, the rejection of independent claim 1 under 35 U.S.C. 103(a) is improper and should be withdrawn.

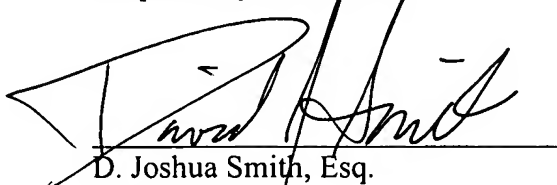
As dependent claims 4, 5, 8, 9, 17-19 and 22-24 depend directly or indirectly from independent claim 1 and add additional limitations thereto, Applicants submits that the arguments above apply equally thereto. Accordingly, Applicants respectfully request withdrawal of the rejection of claims 4, 5, 8, 9, 17-19 and 22-24 and request indication that such claims are allowable.

**Rejection of Claims 6, 7 and 25 under 35 U.S.C. §103(a) over Tambornino in view of Templeman and further in view of Chene**

The Patent Office rejects dependent claims 6, 7 and 25 under 35 U.S.C. §103(a) over Tambornino in view of Templeman and further in view of Chene. As claims 6, 7 and 25 depend directly or indirectly from independent claim 1 and add additional limitation thereto, claims 6, 7 and 25 are also allowable over the references of record.

In light of the foregoing, Applicants submit that the application is now in condition for allowance, and accordingly, respectfully requests the allowance thereof. Should the Examiner have any questions pertaining the to above, undersigned Counsel would welcome a phone call to provide any further clarification.

Respectfully submitted,



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